

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-16-934-M
	)	
\$50,900.00 IN UNITED STATES	)	
CURRENCY OF IBC BANK CASHIER'S	)	
CHECK #162263996 IN THE AMOUNT	)	
OF \$250,910 IN UNITED STATES	)	
CURRENCY, SEIZED ON MAY 27, 2015,	)	
FROM INSURED AIRCRAFT TITLE	)	
SERVICES, INC.,	)	
	)	
Defendant.	)	

**ORDER**

Before the Court is plaintiff's Motion to Strike the Verified Claims Filed by Benjamin Polat and Luis Grillo, filed January 23, 2017. On February 6, 2017, claimants filed their response, and on February 13, 2017, plaintiff filed its reply. Based upon the parties' submissions, the Court makes its determination.

On December 11, 2015, plaintiff filed its verified complaint for forfeiture in rem against \$50,900.00 in the United States District Court for the District of Massachusetts. On March 11, 2016, Benjamin Polat filed a verified claim to \$42,000.00 of the \$50,900.00. On April 5, 2016, claimant Polat filed a motion to dismiss. On April 19, 2016, Luis Grillo filed a verified claim to \$8,900.00 of the \$50,900.00. Along with his verified claim, claimant Grillo filed a motion to dismiss. On August 11, 2016, the United States District Court for the District of Massachusetts transferred this case to this Court. On October 5, 2016, claimants filed a renewed motion to

dismiss. On December 14, 2016, this Court entered an order denying claimants' renewed motion to dismiss. Claimants' answer was due on or before December 28, 2016.<sup>1</sup>

Pursuant to Rule G(8)(c) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture, plaintiff moves this Court to strike the verified claims filed by Benjamin Polat and Luis Saldana Grillo due to their failure to file answers in accordance with the Supplemental Rules. Rule G(8)(c) provides, in pertinent part: "At any time before trial, the government may move to strike a claim or answer: (A) for failing to comply with Rule G(5) or (6), or (B) because the claimant lacks standing." Fed. R. Civ. P. Supp. Rule G(8)(c)(i). Rule G(5)(b) provides, in pertinent part: "A claimant must serve and file an answer to the complaint or a motion under Rule 12 within 21 days after filing the claim." Fed. R. Civ. P. Supp. Rule G(5)(b). "Rule 12(a)(4) suspends the time to answer when a Rule 12 motion is served within the time allowed to answer." Advisory Committee Notes to Fed. R. Civ. P. Supp. G(5)(b). Although the Supplemental Rules do not address how much time a claimant has to file an answer after a court denies a motion to dismiss, Fed. R. Civ. P. 12(a)(4)(A) fills this gap. *See* Fed. R. Civ. P. Supp. Rule A(2); Fed. R. Civ. P. Supp. Rule G(1). Finally, Federal Rule of Civil Procedure 12(a)(4)(A) provides that a claimant must serve his answer within 14 days after notice of the court's ruling on his motion. *See* Fed. R. Civ. P. 12(a)(4)(A).

In the case at bar, since claimants filed motions to dismiss, their answer was due within fourteen days after notice of the Court's ruling on their motion. On December 14, 2016, this Court denied claimants' motion to dismiss. As claimants' attorney would have received an electronic

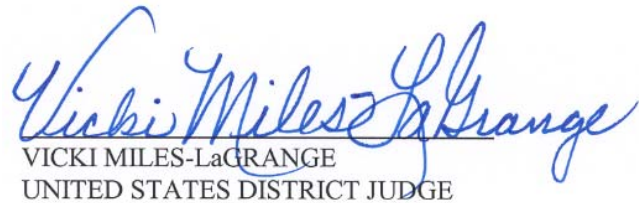
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<sup>1</sup> Claimants filed their answer on January 23, 2017. On February 14, 2017, claimants filed an application for an extension of time to file their answer or to deem their answer timely filed. In separate orders issued this same date, the Court has denied claimants' application for extension of time or to deem their answer timely filed and has stricken claimants' untimely answer.

notice of this Court's December 14, 2016 Order on December 14, 2016, claimants' answer was due on or before December 28, 2016. Claimants, however, did not file a timely answer and, thus, did not comply with Rule G(5). In light of claimants' failure to comply with Rule G(5), the Court finds, pursuant to Rule G(8)(c)(i), that claimants' verified claims should be stricken.

Accordingly, the Court GRANTS plaintiff's Motion to Strike the Verified Claims Filed by Benjamin Polat and Luis Grillo [docket no. 40] and STRIKES the Verified Claim of Benjamin Polat [docket no. 13] and the Verified Claim of Luis Saldana Grillo [docket no. 17].

**IT IS SO ORDERED this 16th day of June, 2017.**



VICKI MILES-LAGRANGE  
UNITED STATES DISTRICT JUDGE